

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Joshua Mitchum, Development Review Specialist

JL for Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation

DATE: July 16, 2025

SUBJECT: ZC 22-08A: 2-Year Time Extension to ZC Order 22-08 (Voluntary Design Review of 4401-4435 Benning Road NE) (Square 5085, Lots 40 & 61)

I. RECOMMENDATION

The Office of Planning (“OP”) recommends **approval** of the 2-Year Time Extension of the approved design review case under ZC Order 22-08.

II. BACKGROUND

The property has received the following recent Zoning Commission approvals:

Order	Action	Description
21-08 November 18, 2021	Approved	Text Amendment to, among other things, establish the MU-7A and MU-7B Zones
22-08 August 26, 2022	Approved	Voluntary Design Review for a proposed 9-story plus penthouse residential building with 109 dwelling units.

III. SITE SUMMARY

Address:	4401-4435 Benning Road NE
Applicant:	NRP Properties, LLC
Legal Description:	Square 5085; Lots 40 & 61
Ward / ANC:	Ward 7 / ANC 7F (7D at the time of original approval)
Zoning:	MU-7B, Medium-Density Mixed Use
Comprehensive Plan Maps:	Future Land Use Map: <ul style="list-style-type: none"> Commercial-Medium Density (CMED) Residential-Medium Density (RMED) Generalized Policy Map: <ul style="list-style-type: none"> Neighborhood Commercial Centers
Approved Development	9-story plus penthouse residential building with 109 all affordable dwelling units, including 22 three-bedroom units.
Order Approval	August 26, 2022
Order Expiration:	August 26, 2024
Extension Request:	Two-year time extension to file a building permit application and begin construction no later than August 26, 2027.

Figure 1. Location Map



IV. EVALUATION OF THE EXTENSION REQUEST

Subtitle Z § 705 TIME EXTENSIONS

705.2 The extension of a PUD is allowed for “good cause” shown upon the filing of a written request by the applicant before the expiration of the approval; provided that the Zoning Commission determines that the following requirements are met:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;*

The filings indicate that the request was served within the required timeframe.

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the application that would undermine the Commission’s justification for approving the original application;*

Comprehensive Plan

This form of design review case was evaluated against the 2021 Comprehensive Plan, and there have been no changes to the Comprehensive Plan that would change the material facts upon which the Zoning Commission based its original approval.

Zoning Regulations

Since the initiation of this project, there have been no changes to the Zoning Regulations that would change the material facts upon which the Zoning Commission based its original approval.

Surrounding Development

Since the original approval of the project under ZC Order 22-08, while general development has continued in the surrounding vicinity of the subject property, OP is not aware of any significant in the immediate area of the property that would substantially

impact the material facts upon which the Zoning Commission based its original approval.

Proposed Development

The time extension request does not propose any changes to the project as approved in ZC Order 22-08.

(c) The applicant demonstrates with substantial evidence one (1) or more of the following criteria:

(1) An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;

The Applicant has stated in their burden of proof (Exhibit 2) that, despite good faith efforts, they have been unable to secure financing due to changing economic and market conditions. The Applicant further cites that, since the application original approval, they have taken various steps to diligently pursue development, which includes advancing the project design to full construction drawings, and utilization of the Department of Building's Accelerated Plan Review program.

(2) An inability to secure all required governmental agency approvals for a development by the expiration date of the order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or

The Applicant states that the property's "encumbrances" have created considerable administrative and permitting challenges that have resulted in ongoing coordination with multiple agencies and additional layers of review.

V. AGENCY COMMENTS

As of the date of this report, comments from other agencies had not been filed to the record:

VI. ANC COMMENTS

As of the date of this report, comments from ANC 7F had not been filed to the record: